



# NEWS

Judicial Council of California  
ADMINISTRATIVE OFFICE OF THE COURTS  
Public Information Office  
(415) 865-7740

Lynn Holton, Public Information Officer

Release Date: May 30, 2003

Release Number: S.C. 22/03

## **SUMMARY OF CASES ACCEPTED DURING THE WEEK OF MAY 19, 2003**

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The description or descriptions set out below do not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#03-72 People v. Carmony, S115090. (C038802; unpublished opinion; Shasta County Superior Court; 00F856.) Petition for review after the Court of Appeal reversed a judgment of conviction of a criminal offense and remanded for resentencing. This case presents the following issues: (1) What is the appropriate standard of appellate review of a trial court's decision declining to dismiss a prior conviction for purposes of sentencing under the three strikes law? (2) Did the trial court in this case commit reversible error in declining to dismiss any of the defendant's prior convictions for purposes of sentencing under the three strikes law?

#03-73 In re Jennings, S115009. (C041479; 106 Cal.App.4th 869; Sacramento County Superior Court; 00M07614.) Petition for review after the Court of Appeal denied a petition for writ of habeas corpus. This case presents the following issues: (1) Is Business and Professions Code section 25658, subdivision (c), which imposes criminal liability on those who furnish alcohol to a minor who thereafter causes great bodily injury or death, a strict liability offense? (2) Is a defendant's reasonable mistake of fact (with regard to whether the person to whom alcohol was furnished was a minor) a defense to this crime?

(over)

#03-74 People v. Campbell, S115020. (H023299; 106 Cal.App.4th 808; Santa Clara County Superior Court; C9951716.) Petition for review after the Court of Appeal affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in People v. Canty, S109537 (#02-167), which presents the following issue: Was defendant entitled to have the disposition of her conviction for transportation of a controlled substance set in accordance with the provisions of the Substance Abuse and Crime Prevention Act of 2000 (Prop. 36, General Elec. (Nov. 7, 2000)), or was that enactment inapplicable because defendant was also convicted of misdemeanor driving under the influence of a controlled substance? (See Pen. Code, § 1210.1, subd. (b)(2).

#03-75 De Grezia v. Superior Court, S115219. (B157914; 106 Cal.App.4th 1278; Los Angeles County Superior Court; BC264673.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. The court ordered briefing deferred pending decision in Saint Agnes Medical Center v. PacificCare of California, S111323 (#03-16), which presents the following issue: Does a party that attempts to repudiate a contract thereby waive, as a matter of law, its right to compel arbitration under the arbitration clause of that contract?

#03-76 People v. Salinas, S115134. (F038894; 106 Cal.App.4th 993; Fresno County Superior Court; 658318-1.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in People v. Brown, S113929 (#03-42), which presents the following issue: Did the trial court err in admitting expert testimony on Battered Women's Syndrome (BWS) in the absence of evidence establishing that the victim had been subjected to prior instances of domestic abuse?

## **DISPOSITION**

#02-157 Associated Aviation Underwriters, Inc. v. Purex Industries, Inc., S108558, was transferred to the Court of Appeal for reconsideration in light of Henkel Corp. v. Hartford Accident & Indemnity Co. (2003) 29 Cal.4th 934.

## STATUS

#03-55 People v. Johnson, S113803. The court limited review to the following issue: Where the trial court recalls a sentence under Penal Code section 1170, subdivision (d), and resentsences the defendant, is the defendant entitled to presentence credit under Penal Code section 4019 for the time the defendant spent in prison serving his or her original sentence before the resentencing?

The court ordered briefing in the following cases deferred pending decision in American Ins. Assn. v. Garamendi, No. 02-272, cert. granted Jan. 10, 2001 (123 S.Ct. 817) and further order of the court:

#03-63 Mitsubishi Materials Corp. v. Superior Court, S114470.

#03-64 Taiheiyo Cement Corp. v. Superior Court, S113759.

#